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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-043]

Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of stainless steel sheet and strip (stainless steel sheet and strip) from the People's Republic of China (PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, see the "Final Determination" section of this notice. The period of investigation is January 1, 2015, through December 31, 2015.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Spencer Toubia or David Lindgren, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0123 or (202) 482-3870, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on July 18, 2016.¹ A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Final Decision Memorandum.² The Final Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Final Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2015, through December 31, 2015.

Scope Comments

In accordance with the Preliminary Scope Determination, the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on

¹ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016) (*Preliminary Determination*).

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China," (Final Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

scope issues.³ No interested parties submitted scope comments in case or rebuttal briefs; therefore, the scope of this investigation remains unchanged for this final determination.

Scope of the Investigation

The product covered by this investigation is stainless sheet and strip from the PRC. For a complete description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix II of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Final Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Final Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available

The Department, in making these findings, relied, in part, on facts available, and because one or more respondents failed to cooperate by not acting to the best of their ability, we made adverse inferences.⁴ For the final determination, we are basing the countervailing duty (CVD) rates for Ningbo Baoxin Stainless Steel Co., Ltd. (Ningbo Baoxin) and Daming International Import Export Co Ltd (Daming) on facts otherwise available, pursuant to sections 776(a)(2)(A) and (C) of the Tariff Act of 1930, as amended (the Act). Further, because Ningbo Baoxin and Daming did not cooperate to the best of their ability in this investigation, we also determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. For further information, *see the Preliminary Determination* as well as the section “Use of Facts Otherwise Available and Adverse Inferences,” in the Final Decision Memorandum.

³ *See* Memorandum, “Stainless Steel Sheet and Strip from the People’s Republic of China: Preliminary Scope Memorandum for the Antidumping and Countervailing Duty Investigations,” September 9, 2016.

⁴ *See* sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections accepted at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Final Decision Memorandum and the Final Analysis Memorandum.⁵

Final Affirmative Determination of Critical Circumstances, in Part

Prior to the *Preliminary Determination*, the Department found that critical circumstances exist with respect to imports of stainless sheet and strip from the PRC for Shanxi Taigang Stainless Steel Co. Ltd. (Taigang), Ningbo Baoxin, Daming, and "all other" companies.⁶ Upon further analysis of the data and comments submitted by interested parties following the *Preliminary Determination*, we are modifying our findings for the *Final Determination*.⁷ Specifically, in accordance with section 705(a)(2) of the Act, we find that critical circumstances exist with respect to imports from Ningbo Baoxin and Daming, but do not exist for Taigang and "all other" producers or exporters.⁸

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established rates for Taigang (the only individually investigated exporter/producer of the subject merchandise that participated in this investigation), and for Ningbo Baoxin and Daming (which were assigned a rate based on adverse facts available (AFA)).

⁵ See Final Decision Memorandum; see also Memorandum, "Final Determination Analysis for Shanxi Taigang Stainless Steel Co. Ltd.," dated concurrently with this determination and hereby adopted by this notice.

⁶ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Determination of Critical Circumstances*, 81 FR 41519 (June 27, 2016).

⁷ For a full description of the methodology and results of our analysis, see the Final Decision Memorandum.

⁸ See Final Decision Memorandum.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A)(i) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weight averaging the subsidy rates of the individual companies selected for individual examination with those companies’ export sales of the subject merchandise to the United States, excluding any zero and *de minimis* rates calculated for the exporters and producers individually investigated, and any rates determined entirely under section 776 of the Act. Consistent with section 705(c)(5)(A)(i) of the Act, we, therefore, have excluded the AFA rate assigned to Ningbo Baoxin and Daming from the determination of the all-others rate.

Because the only individually calculated rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Taigang, in accordance with section 705(c)(5)(A)(i) of the Act, the rate calculated for Taigang is assigned as the “all-others” rate. The estimated countervailable subsidy rates are summarized in the table below.

Company	Subsidy Rate
Shanxi Taigang Stainless Steel Co. Ltd.	75.60 percent
Ningbo Baoxin Stainless Steel Co., Ltd., Baosteel Stainless Steel Co Ltd, Baoshan Iron & Steel Co, Ltd., Baosteel Desheng Stainless Steel Co., Ltd, Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd.	190.71 percent
Daming International Import Export Co Ltd. and Tianjin Taigang Daming Metal Product Co., Ltd.	190.71 percent
All-Others	75.60 percent

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B), (d)(2), and (e)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were

entered or withdrawn from warehouse, for consumption, on or after April 19, 2016. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, for consumption, on or after November 14, 2016, but to continue the suspension of liquidation of all entries from April 19, 2016, through November 13, 2016.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. Further, because we find critical circumstances do not exist for Taigang and “all other” producers or exporters, we will terminate the retroactive suspension of liquidation ordered at the Preliminary Determination and release any cash deposits that were required during that period, consistent with section 705(c)(3) of the Act.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: February 1, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances, in Part
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Application of the Countervailing Duty Law to Imports from the PRC
- VII. Subsidies Valuation Information
- VIII. Benchmarks and Discount Rates
- IX. Use of Facts Otherwise Available and Adverse Inferences
- X. Analysis of Programs
- XI. Analysis of Comments

Comment 1:	Subsidies Received by Taigang Xinlei
Comment 2:	Previously Unreported Government Grants Received by the Taigang Companies Discovered at Verification

Comment 3:	TISCO's Exemption from Distributing Dividends to the State
Comment 4:	Equity Investments in Taigang Wanbang
Comment 5:	The Department's Preliminary Calculations Relating to the Provision of Land for LTAR Significantly Understate the Countervailable Benefit to TISCO
Comment 6:	The Department's Preliminary Calculations Contain Errors in Certain Formulas for Calculating the Benefit from the Provision of Electricity for LTAR
Comment 7:	The Department Must Use Taigang's Consolidated Sales in Calculating Any Subsidy Rate with Respect to Subsidies Received Directly by Taigang
Comment 8:	The Correct Benchmark for Nickel Pig Iron
Comment 9:	Provision of Inputs and Financing from Taigang's Cross-Owned Affiliates
Comment 10:	Countervailability of Certain Chromium Purchases
Comment 11:	Use of AFA in Finding Deed Tax Exemption Used by Taigang/Untimely Submission

XII. Recommendation

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is stainless steel sheet and strip, whether in coils or straight lengths. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product with a width that is greater than 9.5 mm and with a thickness of 0.3048 mm and greater but less than 4.75 mm, and that is annealed or otherwise heat treated, and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, annealed, tempered, polished, aluminized, coated, painted, varnished, trimmed, cut, punched, or slit, etc.) provided that it maintains the specific dimensions of sheet and strip set forth above following such processing. The products described include products regardless of shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above: (1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded.

Subject merchandise includes stainless steel sheet and strip that has been further processed in a third country, including but not limited to cold-rolling, annealing, tempering, polishing, aluminizing, coating, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the stainless steel sheet and strip.

Excluded from the scope of this investigation are the following: (1) sheet and strip that is not annealed or otherwise heat treated and not pickled or otherwise descaled; (2) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); and (3) flat wire (*i.e.*, cold-rolled sections, with a mill edge, rectangular in shape, of a width of not more than 9.5 mm).

The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.13.0081, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005,

7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.
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